THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.Nos.6739 of 2004 and 5601 of 2006

Dt.23.3.2006

Between:

Thota Venkatarao and others … Petitioners

And

The Commissioner of Endowments,

Govt. of A.P., Hyderabad and others

…Respondents

COMMON ORDER:

Since the issue involved in these writ petitions is one and the same, they are being heard and disposed of together.

W.P.No.6739 of 2004 has been filed to declare the proposed action of the respondents in trying to evict the petitioners from their respective lawful possession and enjoyment of the lands in respect of the lands admeasuring Ac.1.08 cents, Ac.1.11 cents, Ac.1.26 cents, Ac.1.08 cents, Ac.1.10 cents, Ac.0.90 cents, Ac.2.40 cents, Ac.1.05

cents, Ac.1.15 cents, Ac.1.17 cents and Ac.0.40 cents in R.S.No.9/2 belong to 3rd respondent Devasthanam situated at Ryali Village, Atreyapuram Mandal, East Godavari District as illegal and arbitrary.

W.P.No.5601 of 2006 has been filed questioning the impugned notice Ref.A/560/99, dt.8.3.2006 directing the petitioners to vacate the land which is in possession and enjoyment of the petitioners admeasuring Ac.1.20 cents, Ac.1.20 cents, Ac.1.50 cents, Ac.1.08 cents, Ac.1.06 cents, Act.1.08 cents and Ac.1.26 cents respectively in Sy.No.9/2B situated at Ryali village of Atreyapuram Mandal, East Godavari District, as illegal and arbitrary.

Petitioners are in possession and enjoyment of the said lands as cultivating tenants by paying maktha to the 3rd respondent devasthanam. While so, the 2nd respondent issued the impugned notice vide Ref.No.A/560/99, dt.8.3.2006 informing the petitioners that under reference G3/3848/03, dt.23.9.2003 and notification under Section 4(1) of the Act published in East Godavari District Gazette on 26.9.2003 and also in two daily papers i.e., Praja Sakthi dt.16.10.2003 and Pledge (English) dt.18.10.2003, the land to an extent of Ac.20.00 in R.S.No.9/2B belonging to Sri Jagan Mohini Kesavaswamivari Devasthanam, Ryali village of Atreyapuram are acquired for allotment of house sites to the weaker sections and accordingly the Revenue Divisional Officer, Amalapuram has given publication on 28.10.2003 calling for objections to make enquiry and on 13.11.2003 enquiry under Section 5-A was conduced and an advance amount was also paid to the 3rd respondent devasthanam and distributed house sites. It is stated that the petitioners are encroachers of the land acquired and raised crop and the same is brought to the notice and accordingly the petitioners are directed to vacate the land acquired by the Government within 15 days.

The learned counsel for the petitioners contended that the petitioners are lessees of the 3rd respondent devasthanam and they are small farmers and their applications to declare them as landless poor have not been considered and without considering the same it may not be

just and proper to dispossess the petitioners.

Counter affidavit has been filed in W.P.No.6739 of 2004 stating that admittedly the 3rd respondent is the owner of the land in question admeasuring Ac.20.00 in S.No.92/B situated at Ryali village and the said land was selected for providing house sites to weaker sections as there is no other land available in the village. It is stated that 600 beneficiaries belonging to S.Cs., S.Ts., B.Cs., and E.B.Cs., have been identified and therefore notification under Section 4(1) of the Act has been published in the Gazette on 26.9.2003, publishing in the locality on 17.10.2003, Prajasakti (Telugu) paper on 16.10.2003 and Pledge (English) paper on 18.10.2003 and notices under Section 5-A of the Act were issued calling upon all the persons interested in the notified land to file their claims and objections before the Land Acquisition Officer and Revenue Divisional Officer, Amalapuram on or before 13.11.2003. The substance of the notice under Section 5-A was also published in the locality on 28.10.2003 and no objections have been filed by anybody. Therefore, the Commissioner of Endowments, Hyderabad has accorded permission to the Collector, East Godavari to take possession of the notified land subject to terms and conditions. Accordingly, an amount of Rs.16,96,000/- was paid towards advance compensation to the 3rd respondent institution on 12.12.2003 and possession of the said land was taken on 20.1.2004. As there were some petitions with regard to the selection of beneficiaries and distribution of house site pattas, the same was stopped due to General Elections to House of People and A.P.Legislative Assembly, 2004. It is further stated that none of the petitioners are the original tenants and therefore the petitioners are suppressing the fact without any justification whatsoever and they have resorted to file W.P.No.6739 of 2004. The petitioners are not lessees of the 3rd respondent devasthanam and as such the question of declaring them as landless poor does not arise. The petitioners never filed any objections in the enquiry proceedings under Section 5-A of the Act.

Heard the learned counsel for the petitioners as well as the learned Government Pleader on behalf of respondents and the learned Sanding Counsel on behalf of the 3rd respondent Devasthanam.

Having heard the learned counsel on both side and having gone through the entire material available on record, I am of the opinion that the petitioners are only trespassers of the endowment land and after taking possession of the said land any cultivation made by them will not give rise to continuance of their possession.

The writ petitions are devoid of merit and they are accordingly dismissed. No order as to costs.

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V.ESWARAIAH, J.

23.3.2006

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